THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

M.A.C.M.A.No.2310 of 2005
and
Cross Objections (SR) No.52784 of 2005

JUDGMENT:-

Challenging the Order, dated 17.03.2005, passed in O.P.No.752 of 2002 by the Chairman, Motor Accident Claims Tribunal-cum-District Judge, Nizamabad, ('the Tribunal', for brevity), the Oriental Insurance Company Limited preferred M.A.C.M.A.No.2310 of 2005 seeking to set aside the impugned Order and the claimants preferred Cross Objections (SR) No.52784 of 2005 seeking enhancement of compensation.

3. Heard the learned counsel for both sides and perused the record. For clarity and convenience, the parties will be hereinafter referred to as per their array before the Tribunal.

4. The learned Standing Counsel for the appellant in MACMA No.2310 of 2005 and 2nd respondent in Cross Objections (SR) No.52784 of 2005 would contend that the age of the deceased at the time of his death was 40 years. As per the judgment of the Apex court in case between Sarla Verma v. Delhi Transport Corporation[1], the appropriate multiplier applicable to the age of the deceased (40 years) is '15'. But the Tribunal erroneously applied multiplier '16'. Further, the Tribunal granted interest at the rate of 9% on the amount awarded as compensation, which is excessive and ultimately prayed to allow the appeal by setting

[1] AIR 2009 SC 3104

aside the Order under challenge and to dismiss the Cross Objections filed by the claimants.

5. On the other hand, the learned counsel for the Cross Objectors 1 to 7 in Cross Objections (SR) No.52784 of 2005/respondents 1 to 7 in MACMA No.2310 of 2005 (claimants) would contend that the Tribunal had rightly assessed, calculated and awarded compensation to the claimants. There are no justifiable grounds to reduce the compensation. None of the contentions raised on behalf of the appellant-Insurance Company merit consideration and ultimately prayed to dismiss the appeal filed by the Insurance Company and enhance the amount of compensation as claimed.

6. In view of the above rival contentions, the point that arises for determination in this appeal is whether the contentions raised on behalf of the appellant-Insurance Company and respondents/claimants are sustainable.

7. It is not in dispute that the deceased-G.Yellappa died in a road accident that occurred on 14.05.2002, due to the rash and negligent driving of the driver of the Tempo Trax Jeep bearing registration No.AP-25-D-6796. As per the evidence on record, the deceased was 40 years old as on the date of accident. The criminal case record would substantiate the same. His occupation was fruits and vegetable vendor. The Tribunal had assessed the monthly earnings of the deceased as Rs.2,250/-, i.e., Rs.27,000/- per annum and by adopting multiplier ‘16’ as per the II Schedule of the Act, assessed the total loss of

dependency as Rs.4,32,000/-. The Tribunal further granted an amount of Rs.15,000/- to the 1st claimant towards loss of consortium and Rs.5,000/- to the claimants towards funeral expenses. In all, the Tribunal awarded an amount of Rs.4,52,000/- with interest at the rate of 9% per annum from the date of petition till the date of realisation.

8. In National Insurance Co. Ltd., Vs. Pranay Sethi and others[2], the Apex Court granted Rs.40,000/- towards loss of consortium, Rs.15,000/- towards loss of estate and Rs.15,000/- for funeral expenses. But in the instant case, the Tribunal granted only Rs.20,000/- under conventional heads. The Tribunal adopted multiplier '16' instead of '15' and ultimately granted a compensation of Rs.4,52,000/- with interest at the rate of 9% per annum from the date of petition till the date of realisation is justified.

9. As far as Cross Objections filed by the claimants is concerned, since the Tribunal adopted multiplier '16' instead of '15' and granted interest at the rate of 9% per annum on the compensation awarded, from the date of petition till the date of realisation, there is nothing to take a different view and to enhance the amount of compensation. Hence, the Cross Objections filed by the claimants are liable to be dismissed.

10. In the result, M.A.C.M.A.No.2310 of 2005 filed by the Insurance Company and Cross Objections (SR) No.52784 of 2005 filed by the claimants are dismissed.

[2] 2017 (6) ALD 170 (SC)

Miscellaneous petitions, if any, pending in both these appeals, stand closed. No order as to costs.

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Dr. SHAMEEM AKTHER, J

28th June, 2018
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